

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF BANKING 333 MARKET STREET, 16TH FLOOR HARRISBURG, PENNSYLVANIA 17101-2290

A WILLIAM SCHENCK III.
SECRETARY OF BANKING

December 13, 2005

TELEPHONE, 717-787-6991

Robert E Feldman
Executive Secretary
Attention: Comments/Executive Secretary Section
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Re: Requested Comments on Notice of Proposed Rulemaking FIL-109-2005

Dear Mr. Feldman:

The FDIC has requested comments regarding proposed rules to clarify the applicability of host state laws to branches of out-of-state, state-chartered banks by providing that host state laws would not be applicable to branch activities of these state banks to the same extent that the Office of Comptroller of the Currency or a federal court has formally determined such law would not apply to the branch of an out-of state national bank, and to clarify limitations on interest rates for state banks. This proposal was generated, in part, from a petition submitted by the Financial Services Roundtable seeking rules to provide parity between state and national banks in interstate authority and operations.

The Department of Banking of the Commonwealth of Pennsylvania appreciates this opportunity to comment. We presently charter and oversee 169 banking institutions in the Commonwealth with total assets of approximately \$110 billion, and have, along with our Pennsylvania state-chartered institutions, become increasingly concerned with competitive disparities between state and federal banks and ultimately, the impact of such inequities on the dual banking system in this country.

The rules issued by the Office of Comptroller of the Currency and the Office of Thrift Supervision have effectively exempted national banks and federal thrifts from compliance with state consumer protection laws with no appropriate opportunity for input or comment by state regulators in the process. Pennsylvania has sought to address such concerns in the courts, in conjunction with fellow state regulators, thus far to no avail. Moreover, it does not appear at present that the most prudent means of curtailing overreaching by the federal authorities via Congressional action is likely to occur. As such, we believe it appropriate to take steps now to preserve and foster the state charter through stronger measures, such as those advocated in the proposal advanced by the FDIC Board.

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Pennsylvania is a longstanding member of the Conference of State Bank Supervisors, which has vigorously represented states rights and the interests of state regulatory agencies. We concur with the comments of CSBS in suggesting that the FDIC proposal provides a remedy to restore balance to a banking system that has tilted to the favor of federally chartered institutions operating nationally and the detriment of state, community and local banks. In this regard, I have personally had conversations with the management of federally chartered institutions considering conversion to a Pennsylvania state charter. Those institutions have advised us that they were constrained in converting due to widely divergent and restrictive state laws and regulations, excluding the laws of the Commonwealth, which currently are not applicable to their national operations in the states where they are based, but would apply upon conversion. The administrative cost and impact on business operations by conversion to the state charter were deemed overly burdensome by management and their respective boards. Thus, that competitive disadvantage has become very real to us in Pennsylvania.

We cannot countenance the status quo preemption of state law continuing to occur under our watch. While we very much respect the positions of fellow state regulators which reject the FDIC proposal couching the ultimate outcome as a race to the bottom, we are compelled to disagree. Our institutions deserve no less than our strong advocacy in support of their continued viability and growth, and the states must be free to serve as laboratories for innovation and creativity. Without a level playing field for banking institutions in the United States, the number of state chartered institutions will continue to decline, an untenable situation for state regulators and our banking industry, and the states will ultimately regulate only small or problematic institutions within their borders.

We appreciate the work of the FDIC Board and its staff and commend your efforts in considering this innovative proposal to bring vitality back to the state system and preserve dual banking.

Sincerely

A William Schenck IV